



**Order under Section 57
Residential Tenancies Act, 2006**

File Number: LTB-T-090193-24

In the matter of: 22 HAMILTON DR
NEWMARKET ON L3Y3E8

Between: Travis Richardson Tenants
Christina Polishuk

And

Lulu Holdings Inc. Landlord

Travis Richardson ("TR") and Christina Polishuk ("CP") (the 'Tenants') applied for an order determining that Lulu Holdings Inc. (the 'Landlord') collected or retained money illegally (T1 application) and gave a notice of termination in bad faith (T5 application).

This application was heard by videoconference on May 5, 2026.

Only the Tenants, and their Legal Representative, Alisa Burke, attended the hearing.

As of 10:18am, the Landlord was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. Notice of the hearing was also sent by the Tenant's Legal Representative and the Tenants via personal service. As a result, the hearing proceeded with only the Tenants' evidence.

Determinations:

T1 Application

1. As explained below, the Tenants' proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay the Tenants one month's compensation for the N12 notice that they served on July 27, 2023, interest on the last month rent deposit, and refund the pet deposit.
2. The Tenant claims that the Landlord collected a charge which is not allowed by the *Residential Tenancies Act, 2006* (the 'Act').

Evidence and Analysis

3. The Tenants testified that the tenancy began on February 1, 2020. The Tenants stated the rent was \$2,200.00 per month.
4. The Tenants stated they paid \$4,400.00 for first month's rent and a rent deposit and a \$500.00 pet deposit prior to the tenancy commencing. The Tenants submitted a copy of the lease signed by themselves and the Landlord confirming that the Tenants paid these amounts.
5. The Tenants further testified that they never received any interest owed on the last month's rent deposit from the Landlord.
6. The Tenants were advised that the pet deposit would be refundable at the end of the tenancy.
7. On July 27, 2023, the Landlord served the Tenants an N12 notice of termination pursuant to s. 49(1) of the Act for the Purchaser's own use. The termination date was October 31, 2023.
8. Sections 49.1 and 55.1 of the Act state:

49.1 A landlord shall compensate a tenant in an amount equal to one month's rent or offer the tenant another rental unit acceptable to the tenant if,

- (a) the landlord gives the tenant a notice of termination of the tenancy on behalf of a purchaser under subsection 49 (1) or (2); and
- (b) the notice of termination is given on or after the day the Protecting Tenants and Strengthening Community Housing Act, 2020 receives Royal Assent.

55.1 If the landlord is required to compensate a tenant under section 48.1, 49.1, 52, 54 or 55, the landlord shall compensate the tenant no later than on the termination date specified in the notice of termination of the tenancy given by the landlord under section 48, 49 or 50.

9. The Tenant testified that they vacated the rental unit on November 4, 2023, as a result of the N12. The Tenants testified that their pet deposit was never refunded by the Landlord when they moved out. In addition, the Tenants stated that the Landlord did not provide them the compensation required by section 49.1, nor did the Landlord return their last month's rent deposit or pay interest owing on the deposit.
10. The Tenants submitted a copy of the agreement to terminate the lease as they did not feel comfortable signing a N11 form; this agreement was signed by both the Landlord and Tenant with specific terms. The main clause referred to in this agreement was that December 31, 2023, was the latest day that the Tenants can occupy the unit; moreover, if the Tenants were to leave prior to this date, they would be reimbursed that month's rent.
11. The Tenants testified that they were initially given a cheque by the Landlord to compensate them for the N12, however, the cheque was null as it indicated it was for two different amounts. The Landlord mistakenly wrote a cheque for \$22,000.00 and wrote out

in words “twenty-two hundred”. When noticed by the Tenants, they immediately informed the Landlord, who told them they would issue a new cheque. Subsequently, when the Tenants followed up about a replacement cheque, the Landlord ultimately refused to write a new cheque to the Tenants for the N12 compensation.

12. As such, I find the Landlord did not pay the Tenants the compensation required by section 49 and pursuant to section 135(1.1), the Landlord is deemed to have retained this money illegally.
13. Furthermore, at the time the Tenants vacated the rental unit, their rent was paid in full, but the Landlord was still retaining their rent deposit. Subsection 106(10) of the Act requires the last month’s rent deposit to be applied to the last rental period, and it cannot be applied to offset the N12 compensation or used for any other purpose.
14. I find that the Landlord collected an illegal charge for a pet deposit, which was not returned to the Tenant as abovementioned. The parties agreed that the pet deposit was to be refunded upon the Tenants vacating the rental unit.
15. Subsection 105(1) of the Act provides that the only security deposit that a landlord may collect is a rent deposit collected in accordance with section 106.
16. Subsection 105(2) of the Act defines “security deposit” as,

money, property or a right paid or given by or on behalf of a tenant of a rental unit to a landlord or to anyone on the landlord’s behalf to be held by or for the account of the landlord as security for the performance of an obligation or the payment of a liability of the tenant or to be returned to the tenant upon the happening of a condition.

Remedies:

17. As the pet deposit was to be refunded upon the Tenants vacating the rental unit, I find that this deposit meets the definition of “security deposit” in subsection 105(2) of the Act. I further find that it was not a rent deposit permitted under section 105 of the Act because the Tenants also provided a separate rent deposit for the last month of the tenancy. Accordingly, I find that the Landlord contravened the Act when they collected a pet deposit from the Tenants that is in addition to the rent deposit, and they continue to contravene the Act by retaining the deposit.
18. Finally, I find that the Landlord failed to pay the Tenants interest on the rental deposit. Subsection 106(6) requires a landlord to pay interest to the tenant annually on the amount of the rent deposit at a rate equal to the guideline. The amount of interest owed on the rent deposit is \$125.26. This is calculated by applying the amount of interest owed on the rent deposit from the date collected in January 2021 to the date the tenancy was terminated.
19. In total I find that the Landlord owes the Tenant \$629.95 for money illegally collected or retained.

T5 Application

20. As explained below, the Tenants proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must compensate the Tenants for the difference in rent they incurred or will incur for a 12-month period after they vacated and their moving expenses.

Evidence and Analysis

21. Subsection 57(1)(b) of the Act requires the Tenant to prove each of the following on a balance of probabilities:

- The Landlord gave the Tenant an N12 notice of termination under section 49 of the Act;
- The Tenant vacated the rental unit as a result of the N12 notice of termination; and
- No person referred to in subsection 49(1) or 49(2) of the Act occupied the rental unit within a reasonable time after the Tenant vacated.

22. The Tenants proved all of the requirements in subsection 57(1)(b).

23. As noted, on July 27, 2023, the Landlord served the Tenants with an N12 notice of termination for personal use pursuant to s. 48 of the Act. The Tenants vacated the rental unit as a result of the N12 Notice on November 4, 2023.

24. The Tenants testified that they resided in the rental unit for 3 years and only started looking for a new rental after being served the N12 notice. The Tenants further stated that if not for this notice from the Landlord, they had no intention to leave the rental unit.

25. On a balance of probabilities, I find the Tenants vacated the rental unit as a result of the N12 notice of termination they were given under s. 49.

26. The Tenants testified that when the Landlord served the N12 that the property was sold. The Tenants were given multiple reasons by the Landlord as to who would be occupying the rental unit, but ultimately, were informed that the purchaser would be moving into the unit.

27. It was the uncontested evidence that the purchaser did not occupy the rental unit within a reasonable time after the Tenants vacated. Furthermore, it was stated that the purchaser never moved into the rental unit at all as the property was never sold. The Tenants testified that they had friends in the area they visited often. They were told that the unit was re-rented and confirmed that the property was not sold. The new renters moved into the rental unit approximately two months after the Tenants had vacated rather than the purchaser personally occupying it in accordance with the N12 notice.

28. The Landlord did not attend the hearing to provide evidence, and therefore, they did not rebut the above information. Therefore, I find that the Tenants have established all three of parts of the test contained in s. 57(1)(b) of the Act.

Remedies

29. At the hearing, The Tenants requested their rent differential for one year, out of pocket expenses for moving and storage, reimbursement for depreciation of their motor vehicle, and general compensation of \$10,000.00.
30. With respect to rent differential, the Tenants are now paying \$650.00 more per month than they were for the rental unit. I see no reason not to grant the Tenants the remedy requested in this regard. The Tenants' new unit is comparable to their old unit, and if anything, it is a smaller space. An order will issue requiring the Landlord to pay to the Tenants \$7,800.00 for their rent differential for a period of one year.
31. The Tenants also incurred reasonable out of pocket expenses in the amount of \$1,845.35 for moving. The Tenant submitted receipts and bank statements to show how much expense they incurred for mail forwarding, U-Haul truck rentals, moving supplies and materials, gas for the truck rentals, Enbridge account set up, and utility changeover. I am satisfied the amount claimed reflects the reasonable moving expenses the Tenants incurred as a result of the Landlord's breach and an order will issue requiring the Landlord to pay to the Tenants \$1,845.35 for reasonable out of pocket moving expenses.
32. I am unable to award the Tenants depreciation costs as claimed to their motor vehicle. The Tenants testify that they moved to Barrie, and this significantly increased the use of their motor vehicle. As well, the Tenants testified that their commute time to work has increased due to this. The Tenants did not provide satisfactory evidence to substantiate the costs they were seeking in terms of depreciation of their motor vehicle. Therefore, I cannot assess the age and depreciation of the motor vehicle to determine whether the amount claimed is reasonable. In addition, I find it difficult to reconcile this claim with the Tenants' evidence that the Tenants chose to move to Barrie and should have reasonably foreseen this increase in mileage and commute time as a result.
33. The Tenant requested general compensation in the amount of \$10,000.00 due to pain and suffering. The Tenant, particularly TR, is an army veteran who suffers from post-traumatic stress disorder and has mental health issues due to his time in the military. It was the Tenants' evidence that landscaping helps with TR's therapy and is a coping mechanism for him, which he was regularly able to do at the rental unit prior to the N12 notice being served. As a result, the Tenants were unable to find a property with as much green space for TR to have therapeutic landscaping opportunities, and this has set back his treatment. In addition, due to the conduct of the Landlord in serving the N12 and the lack of communication with the Tenants, this worsened TR's trust issues; moreover, it was the Tenants' evidence that the Landlord was aware of TR's mental health issues and the rehabilitation that landscaping gave him. Consequently, the Tenants testified that this entire process also gave them stress, anxiety, and uncertainty. The Landlord has no obligation under the Act to pay this amount, however, there is evidence before me that the Tenants have experienced pain and suffering from this termination of tenancy. As such, I find that the Landlord's conduct resulted in a substantial disruption to the Tenants' tenancy and personal life. Considering the circumstances and having regard to the nature of the breach and its impact, I find that an award of general compensation equivalent to two month's rent is appropriate and just. Therefore, the Landlord is ordered to pay the Tenant \$4,400.00.

It is ordered that:

1. The total amount the Landlord shall pay the Tenants is \$19,118.61. This amount represents:
 - \$500.00 for the pet deposit.
 - \$2,200.00 for the one-month compensation from the N12 notice.
 - \$2,200.00 reimbursement of the last month rent deposit.
 - \$125.26 in interest on the last month rent deposit.
 - \$7,800.00 for increased rent the Tenants have incurred for the one-year period from November 4, 2023, to November 3, 2024.
 - \$1,845.35 for the reasonable moving, storage and other like expenses that the Tenants have incurred as a result of having to move out of the rental unit.
 - \$4,400.00 for general compensation.
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by July 31, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by July 31, 2026, the Landlord will owe interest. This will be simple interest calculated from August 1, 2026, at 4.00% annually on the balance outstanding.
4. The Tenants have the right, at any time, to collect the full amount owing or any balance outstanding under this order.

June 2, 2026
Date Issued

Amit Gurpersaud
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.